

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:12-cv-00194-MOC-DSC**

AMERICAN & EFIRD LLC,)	
)	
Plaintiff,)	
v.)	
)	
PITTSFIELD PLASTICS)	
ENGINEERING, INC.,)	
)	
Defendant/Third-Party Plaintiff,)	
)	
v.)	
)	
METRO PLASTICS, INC., et. al.,)	
)	
Third-Party Defendants.)	
)	
)	
)	

ORDER

THIS MATTER is before the Court on Third Party Plaintiff’s “Motion for Entry of Default as to Third Party Defendant Metro Plastics, Inc.” (document #28), “[Third Party] Defendant Metro Plastic, Inc.’s Motion to Extend Time to Respond to Amended Third-Party Complaint” (document #32), “[Third Party] Defendant Metro Plastics, Inc.’s Motion for Leave to File Answer Out of Time” (document #40), and the parties’ associated briefs and exhibits. See documents ## 31, 32-1, 36, 37, and 40-42.

The Court has carefully considered the record, applicable authority and arguments. The Court finds that Third Party Defendant Metro Plastics, Inc.’s insurance carrier received a courtesy copy of the Third Party Complaint, but inadvertently neglected to forward it to counsel. This was an internal error by the insurance carrier and not the fault of the Third Party Defendant.

For this reason, and the other reasons stated in Third Party Defendant’s Motions and

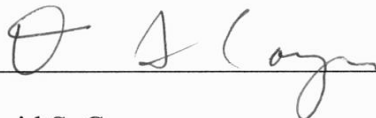
briefs, the Court concludes that its failure to respond to to the Amended Third Party Complaint in a timely manner was the result of excusable neglect. Moreover, the Third Party Defendant has shown good cause for being allowed to file its answer.

NOW, THEREFORE IT IS HEREBY ORDERED that:

1. Third Party Plaintiff's "Motion for Entry of Default as to Third Party Defendant Metro Plastics, Inc." (document #28) is **DENIED**.
2. "[Third Party] Defendant Metro Plastics, Inc.'s Motion to Extend Time to Respond to Amended Third-Party Complaint" (document #32) and "Motion for Leave to File Answer Out of Time" (document #40) are **GRANTED**.
3. Third Party Defendant Metro Plastics, Inc. shall file its answer within five (5) days of the entry of this Order.
4. The Clerk of Court is directed to send copies of this Order to the parties counsel; and to the Honorable Max O. Cogburn, Jr.

SO ORDERED.

Signed: January 8, 2013



David S. Cayer
United States Magistrate Judge

